

ATTORNEY DOCKET No. 114596-09-4016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/425,401 Confirmation No.: 9510
Applicant: John S. Yates, Jr., et al.
Title: PROFILING PROGRAM EXECUTION TO IDENTIFY FREQUENTLY
EXECUTED PORTIONS AND ASSIST BINARY TRANSLATION
Filed: October 22, 1999 Art Unit: 2124
Atty. Docket: 114596-09-4016 Examiner: J.Q. Chavis

CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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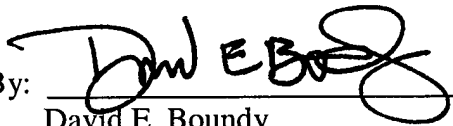
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- Form PTOL 85 Part B
- Response to Notice of Allowance

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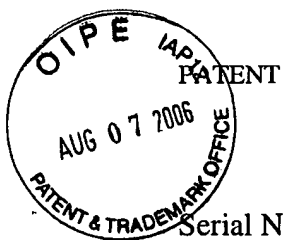
Respectfully submitted,

WILLKIE FARR & GALLAGHER LLP

Dated: August 1, 2006

By: 
David E. Boundy
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Customer No. 38492

RESPONSE TO NOTICE OF ALLOWANCE

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Applicant responds to the Notice of Allowance of July 27, 2006 as follows.

I. Amendments

The amendments by Examiner's Amendment to claims 1 and 19 are not narrowing – in deed, it is believed that they have no effect whatsoever on scope. They are an accommodation to the Examiner's own taste, and not to any statutory requirement.

II. Comments on Examiner's Reasons for Allowance

The Statement of Reasons for Allowance misparaphrases the claims. Claims 1 and 19 recite information sufficient to permit, or permitting, ... reliable inference of the address of the last byte of a multi-byte control transfer instruction." MPEP § 1302.14 instructs that "Care must

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be taken that [reasons for allowance] do not place unwarranted interpretations, whether broad or narrow, upon the claims.” The Examiner’s rephrase of claims is entitled to no weight.

As noted by the Statement of Reasons for Allowance, each claim recites at least one element that is absent from the closest reference. The combination of limitations recited in each claim is also absent from any proper combination of the references. Applicant reserves the fight to establish patentability for other reasons in the future. *TorPharm Inc. v. Ranbaxy Pharmaceuticals Inc.*, 336 F.3d 1322, 1330, 67 USPQ2d 1511, 1517 (Fed. Cir. 2003).

III. Conclusion

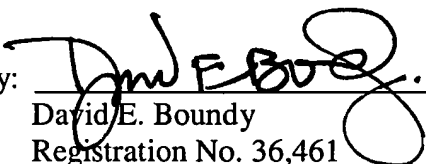
Applicant requests that the application be passed to issue in due course. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance.

Applicant believes this paper occasions no fee. Kindly charge any additional fee, or credit any surplus, to Deposit Account No. 23-2405, Order No. 114596-09-4016.

Respectfully submitted,

WILLKIE FARR & GALLAGHER LLP

Dated: August 1, 2006

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